

Message Text

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14-10

ACTION EA-10

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C O N F I D E N T I A L BANGKOK 4308

PASS OPIC AND COMMERCE

E.O. 11652: GDS

TAGS: EMIN, EINV, TH

SUBJ: TIN CONCESSION TERMINATION

1. SUMMARY: TEMCO TIN CONCESSIONS WERE CANCELLED BY CARE-TAKER CABINET ON MARCH 14. TEMCO WILL CONTEST DECISION WHEN IT IS OFFICIALLY NOTIFIED. INCOMING PRIME MINISTER HAS TOLD ME THAT COMPANY HAS GOOD CHANCE OF SUCCESS IN RE-VERSING DECISION IN COURTS. FIRST ADVERSE EFFECTS OF DECISION ON INVESTMENT CLIMATE ALREADY APPARENT. END SUMMARY.

2. THE CARETAKER SENI CABINET AT A SPECIAL MEETING ON MARCH 14 ORDERED THE WITHDRAWAL OF THE TEMCO TIN CONCESSIONS. ACCORDING TO PRESS ACCOUNTS, THE PRIME MINISTER SAID THAT THE PUBLIC PROSECUTOR HAD ASSURED THE CABINET THAT TEMCO COULD NOT FIND LEGAL GROUNDS TO SUE THE GOVERNMENT. SENI IS REPORTED TO HAVE SAID THAT CANCELLATION OF THE CONCESSION WAS AN ADMINISTRATIVE MATTER AND NOT A POLICY ISSUE. THE MINISTRY OF INDUSTRY WAS INSTRUCTED TO CARRY OUT CONCESSION TERMINATION MARCH 17.

3. PJL LYONS, GENERAL MANAGER OF TEMCO, PHONED THE
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ECONOMIC COUNSELOR IMMEDIATELY FOLLOWING SENI ANNOUNCE-

MENT TO GIVE HIS INITIAL ASSESSMENT. IT APPEARS TO HIM THAT GOVERNMENT IS USING SAME FORMULA IT DID LAST YEAR WHEN IT WITHDREW THE CONCESSIONS OF EMCO MINING. ACTUAL NOTIFICATION OF WITHDRAWAL WILL BE MADE TO COMPANY BY LOCAL REPRESENTATIVES OF DEPARTMENT OF MINERAL RESOURCES IN PROVINCES WHERE CONCESSIONS ARE LOCATED. REVOCATIONS OF PREVIOUS CONCESSIONS WERE MADE ON BASIS OF SECTION 9B OF THE MINING LAW, WHICH VAGUELY REFERS TO "MISUNDERSTANDINGS". AT THE TIME OF THE WITHDRAWAL OF THE EMCO MINING CONCESSIONS, NO EXPLANATION OF WHAT THE "MISUNDERSTANDINGS" WERE/WAS GIVEN. AT THE TIME, THE COMPANY WAS MAINLY INTERESTED IN PROTECTING THE TEMCO CONCESSIONS, SO IT DID NOT CHALLENGE THE GOVERNMENT'S RIGHT TO REVOKE. MR. LYONS SAID THAT THIS TIME THE COMPANY WILL DEFINITELY CONTEST THE GOVERNMENT'S ACTION. TEMCO HAS PREPARED A NUMBER OF OPTIONS IT MIGHT TAKE, RANGING FROM COURT ACTION TO SEEKING AN ACCOMMODATION WITH THE GOVERNMENT UNDER WHICH IT WOULD OPERATE THE CONCESSIONS UNDER CONTRACT, WITH THE GOVERNMENT AS OWNER, COMPANY WOULD DECIDE ON TACTICS AFTER IT RECEIVED OFFICIAL NOTIFICATION OF TERMINATION FROM THE DEPARTMENT OF MINERAL RESOURCES.

4. THERE WERE A NUMBER OF DEVELOPMENTS ON THE CONTROVERSY MARCH 14. THE PRESS CARRIED A REPORT OF MY LETTER TO SENI. ACTIVISTS GROUPS PREDICTABLY PROTESTED AGAINST THE ATTEMPT OF THE AMERICAN AMBASSADOR TO PROTECT THE INTERESTS OF AN AMERICAN COMPANY; CALLED THE LETTER INTERFERENCE IN THAI DOMESTIC AFFAIRS. A SMALL GROUP OF PROFESSORS AND STUDENTS SHOWED UP AT THE EMBASSY TO EXPRESS THEIR DISPLEASURE AND THREE OF THEM WERE RECEIVED BY THE ECONOMIC COUNSELOR. LATER, A WREATH SUITABLY INSCRIBED WITH AN OBSCENTLY WAS LEFT AT THE EMBASSY THE OBSCENTLY ADMIRABLY SUMS UP THE ARGUMENTS OF THE ACTIVIST STUDENT GROUPS WHICH HAVE LED THE CAMPAIGN TO TERMINATE THE CONCESSION.

5. IN THE MORNING DURING MY CALL ON INCOMING PM KHUKRIT PRAMOT, I EXPRESSED INTER ALIA MY CONCERN ABOUT THE THEN-IMPENDING DECISION TO REVOKE. I MENTIONED THE PROBLEMS
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PRESENTED BY THE OPIC INVESTMENT GUARANTY AND THE ADVERSE EFFECTS THE DECISION MIGHT HAVE ON NEW INVESTMENT IN THAILAND. I SPECIFICALLY MENTIONED THAI ZINC.
(SEE PARA 7)

6. KHUKRIT TOLD ME THAT THE CABINET HAD ALREADY GONE TOO FAR TO STOP, AND HE EXPECTED THAT THEY WOULD GO AHEAD AND ORDER THE WITHDRAWAL. HE FURTHER SAID THAT IT WAS

HIS UNDERSTANDING THAT THE COMPANY WOULD HAVE A GOOD CHANCE OF SUCCESS IF IT CHALLENGED THE DECISION IN THE COURTS. KHUKRIT CLEARLY INDICATED THAT FOR POLITICAL REASONS HE WOULD BE UNABLE TO REVERSE SENI'S DECISION ON THIS EMOTIONAL ISSUE.

7. FIRST FALLOUT OF THE TEMCO CONCESSION WITHDRAWAL ALREADY SEEN. OFFICIALS OF THAI ZINC AND PARENT NEW JERSEY ZINC CALLED ON ECONOMIC COUNSELOR ON SAME MORNING. THAI ZINC IS SCHEDULED TO BUILD \$90 MILLION SMELTER IN NORTH THAILAND TO REFINES ORE FROM COMPANY'S MINE WHICH BEGAN OPERATIONS LAST YEAR. UNDER TERMS OF CONCESSION, SHIPMENTS OF UNREFINED ORE OUT OF COUNTRY ARE TIED TO SPECIFIC STEPS IN SMELTER PROJECT. SMELTER PROJECT NOW BEHIND SCHEDULE AND RTG IS HOLDING UP SHIPMENT OF ORE NOW READY FOR EXPORT. NEW JERSEY ZINC OFFICIALS SAID THAT IN PRESENT CLIMATE, THEY CANNOT RECOMMEND GOING ON WITH THE PROJECT TO THEIR BOARD OF DIRECTORS. WHEN THIS ISSUE IS JOINED, RTG COULD WITHDRAW ZINC CONCESSION.

8. IN PREVIOUS TELEGRAMS ON SUBJECT, I HAVE ALREADY INFERRED THAT SENI CABINET WOULD REVOKE CONCESSIONS TO GAIN POLITICAL CAPITAL FOR THE DEMOCRAT-SOCIAL AGRARIAN COALITION. THEY HOPED TO WIN FAVOR WITH STUDENT AGITATORS AND THE LEFT SIDE OF THE POLITICAL SPECTRUM. THIS LEAVES THE NEXT GOVERNMENT WITH THE PROBLEM OF DEALING WITH THE CONSEQUENCES OF THE DECISION. THIS PATENTLY EXPEDIENT DECISION MADE FOR DOMESTIC POLITICAL REASONS CAN ONLY HAMPER THAI DEVELOPMENT EFFORTS. IT IS TO BE HOPED THAT THE KHUKRIT GOVERNMENT WILL BE LESS SUSCEPTIBLE TO IRRATIONAL PRESSURES, AND WILL ARREST THIS DANGEROUS TREND INTO ECONOMIC NATIONALISM.

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